

### **REMARKS**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

As correctly noted in the Office Action Summary, claims 1-34 were pending. By the present response, claims 1, 14, 21-22, 25 and 34 have been amended and claim 2 canceled. Thus, upon entry of the present response, claims 1 and 2-34 remain pending and await further consideration on the merits.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims and the drawing figures.

### ***ALLOWABLE SUBJECT MATTER***

Applicant notes with appreciation the indication that claims 4 and 5 are allowed as indicated in paragraph 6 of the Official Action. Applicant also notes that claims 27-28 depend from allowed claim 4 and claims 29-30 depend from allowed claim 5 and thus claims 4-5 and 27-30 are considered allowed.

In addition, claims 22, 24-30, 32 and 34 are indicated as allowable if rewritten in independent form as noted in paragraph 8 of the Official Action. By the present response, claims 22, 25 and 34 have been rewritten in independent form. Also, claim 26 now depends from rewritten and allowable claim 25. Thus, at least claims 22, 25-26 and 34 are also allowable.

Further, the double patenting rejection of claim 31 has been obviated by submission of a terminal disclaimer. Thus, claim 31 and its dependent claim 32 are also allowable.

Finally, claim 33 has not been rejected in this Official Action and is considered allowable, which is consistent with the Official Action mailed July 13, 2004.

In summary, at least claims 4-5, 22 and 25-34 are allowable. The remaining claims are also allowable after consideration of the arguments presented herein.

#### ***OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTIONS***

Claims 14, 15 and 31 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13 and 16 of Patent No. 6,550,756 to Trovinger in view of EP 569,887 A1 of Hansch et al. on the grounds set forth in paragraph 3 of the Official Action. Submitted herewith is a properly executed Terminal Disclaimer. Withdrawal of the rejection is respectfully requested.

#### ***CLAIM REJECTIONS UNDER 35 U.S.C. §102***

Claims 1-3, 6, 14, 15 and 18-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,735,406 to Weber (hereafter "*Weber*") on the grounds set forth in paragraph 4 of the Official Action. For at least the reasons noted below, this rejection should be withdrawn.

To anticipate a claim, the reference must teach every element of the claim. See MPEP § 2131. For example, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in

a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). Here, the rejection is traversed because the cited reference does not teach every element of the claim. The following comment on the reference is offered.

The rejection is based at least in part on the alleged disclosure in *Weber* of a pivotable collecting device, identified by the Examiner as feature 3 in *Weber* (see, page 5 of the Official Action). However, the collecting device of *Weber* does not pivot about an axis positioned between two supporting sides of the collecting device as recited in each of independent claims 1 and 14. Rather, the Examiner identified collecting device 3 of *Weber* moves about axis 1 which is the axis through the drum/cylinder on which the collecting device 3 is mounted and is not an axis between two supporting sides of the collecting device 3.

Moreover, the Examiner identified collecting device, e.g., feature 3, does not reciprocate. As seen in Figs. 1, 3 and 4 by the arrow indicating only one-direction movement of the saddle-carrier 3 about the axis of shaft 1, the device in *Weber* does not reciprocate.

To anticipate a claim, the reference must. Thus, comparing the disclosure in *Weber* to independent claims 1 and 14 of the present application, the *Weber* patent does not disclose the claimed arrangement including the collecting device pivoting about an axis positioned between the two supporting sides of the collecting device. Further, the *Weber* patent does not disclose the claimed arrangement including the claimed reciprocation of the collecting device. In light of at least these differences, Applicant respectfully submits that an anticipatory rejection is improper since *Weber*

does not teach all of the elements of the claim. See MPEP § 2131. Withdrawal of the rejection of claims 1 and 14 is respectfully requested.

In addition, claims 2-3, and 6 depend from claim 1 and claims 15 and 18-20 depend from claim 14 and each of these dependent claims is therefore the anticipatory rejection of these dependent claims is improper for at least the same reason as for the respective independent claims. Withdrawal of the rejection of these dependent claims is respectfully requested.

***CLAIM REJECTIONS UNDER 35 U.S.C. §103***

Claims 1, 7-21 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,099,225 to Allan et al. (hereafter "*Allan et al.*") in view of *Weber* on the grounds set forth in paragraph 5 of the Official Action. For at least the reasons noted below, this rejection should be withdrawn.

The Official Action on page 7 notes that *Allan et al.* does not disclose a pivotable collecting device. The Examiner then proposes to modify *Allan et al.* with the transferring device and collecting device of *Weber*. However, even if the proposed modification is appropriate the rejection does not establish *prima facie* obviousness. For example, the collecting device of *Weber* does not pivot about an axis positioned between two supporting sides of the collecting device nor does it reciprocate as recited in independent claims 1, 14 and 21. Rather, the Examiner identified collecting device 3 of *Weber* moves in only one direction about axis 1, which is the axis through the drum/cylinder on which the collecting device 3 is mounted and is not an axis between two supporting sides of the collecting device 3. Based on at least the above, it is respectfully asserted that the rejection has not

established a *prima facie* case of obviousness because the references do not teach or suggest all of the claim limitations. See M.P.E.P. §§2143-2143.03. Accordingly, the rejection of independent claims 1, 14 and 21 and their dependent claims, including claims 7-13, 15-20 and 23, is improper and should be withdrawn.

### **CONCLUSION**

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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